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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 591 OF 2007

Urdu Madat Shala & anr..... Petitioners

versus

Minhajjoddin Tajoddin Kazi & anr..... Respondents.

Shri I.M.Khairdi for the petitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 31ST JANUARY, 2007.

P.C.;

1. Two orders passed by the Presiding Officer, School Tribunal, Solapur below Exhs. 57 and 61 are challenged by filing the present writ petition. The said orders are interlocatory orders passed, pending consideration of application at Exh.5, whereby the respondent terminated teacher has sought stay of the impugned order of termination.

2. The learned counsel for the petitioner submits that the respondent was appointed as an Assistant teacher by an order of appointment dated 26-10-1992. The appointment order was made under the signature of Mr. Sagari, as he was the President of the school committee. The contention is that the said President was removed few days prior to the passing of the said resolution i.e. with effect from 4-10-1992. The

respondent was terminated from service with effect from 14th July 2005, which action on the part of the petitoner has been challenged by filing an appeal.

3. By the first application at Exh.57 a direction was sought in regard to production of documents whereas by the other application at Exh.61 permission was sought to record oral evidence in regard to the removal of the earlier President. The tribunal by the impugned orders has observed that under one pretext or the other the matter has been prolonged and hearing of Exh. 5 postponed. The tribunal has found the said applications frivolous and made only to prolong the adjudcation of application at Exh.5. What is relevant to note is that the petitioner's managing committee claims to have taken over the administration on 4-10-1992. Since then till July 2005 the petitioner has continued the respondent as Assistant teacher in its employment. The said appointment was granted approval by the education officer. With a view to justify the termination, the petitioner is trying to contend that the appointment made in the year 1992 was itself bad-in-law. It is obvious that the petitioner cannot be permitted to raise the said ground after a period of almost 13 years, when the resopondent is continued in service under the orders of approval passed by the education officer. I do not find any merit in the present writn petition. The view taken

by the tribunal is a possible view which does not call for any interference in exercise on writ jurisdiction.

In the result, the writ petition fails and is dismissed summarily.

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